

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF NEW YORK**

**BIENVENIDO FRANCO, Individually and on      )  
Behalf of All Others Similarly Situated,      )  
    )  
    )  
Plaintiffs,      )      **Civ. No.: 07 CV 3956**  
v.    )      **(JS/AKT)**  
    )  
IDEAL MORTGAGE BANKERS, LTD. d/b/a      )  
LEND AMERICA, INC., MICHAEL ASHLEY,      )  
TIMOTHY MAYETTE, HELENE DECILLIS,      )  
MICHAEL PRIMEAU,      )  
    )  
Defendants.      )**

**PLAINTIFFS' MOTION IN LIMINE NO. 9**

Plaintiffs respectfully move this Honorable Court to exclude the following evidence:

Any evidence or argument that Defendants are entitled to “set-offs” against unpaid back overtime pay. It is well-established that it is error for a court to allow an employer to introduce such evidence at trial. *Brennan v. Heard.* 491 F.2d 1, 4 (5th Cir.1974) (holding that the purpose of the wage laws is to ensure employees are paid pursuant to minimum wage and overtime standards, and that delving into claimed “set offs” would “clutter these proceedings with the minutiae of other employer-employee relationships.”)

Dated: July 15, 2013

Respectfully Submitted,

/s/ James B. Zouras

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**COUNSEL FOR PLAINTIFFS**

**CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of the foregoing **PLAINTIFFS'** **MOTION IN LIMINE NO. 9** was served upon the following parties via this Court's ECF filing system, this 15<sup>th</sup> day of July, 2013:

Robert H. Weiss  
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And, electronically mailed the above mentioned on this 15<sup>th</sup> day of July, 2013 to the following address:

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*/s/ James B. Zouras*  
James B. Zouras